

The Honorable Ricardo S. Martinez

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

CONEFF, et al.,

Plaintiffs,

v.

NEW CINGULAR WIRELESS SERVICES,  
INC. f/k/a AT&T WIRELESS SERVICES,  
INC.) and AT&T MOBILITY LLC f/k/a  
CINGULAR WIRELESS LLC),

Defendants.

CASE NO. CV 06-0944RSM

**STIPULATION AND ORDER**

COME NOW the parties, by and through their attorneys of record, and hereby stipulate as follows:

**BACKGROUND**

On October 15, 2007 this Court ordered consolidation of the *Papaleo* matter, Case No. C07-0659 with the pending *Coneff* matter. At the time of consolidation, Defendants' Motion to Compel Arbitration Pursuant to the Federal Arbitration Act and to Dismiss Action ("Motion To Compel Arbitration") was and remains pending. The parties hereby stipulate that the pending Motion to Compel Arbitration shall be applicable to the newly-consolidated *Papaleo* claims. The parties understood that this was the intent of the Court in ordering consolidation of the *Papaleo* matter. The parties are submitting this Stipulation in order to clarify the procedure and schedule pertaining to the pending Motion to Compel Arbitration.

**MOTION STATUS**

Pursuant to the parties' previous Stipulations and the Orders of the Court, discovery on behalf of the plaintiffs has been continuing. The defendants intend to submit an Amended Motion To Compel Arbitration that: a) updates the legal analysis in the previously-filed Motion in light of recent case decisions; and b) applies the legal analysis to the newly-consolidated Plaintiffs. In support of the Amended Motion, Defendants also intend to submit a Second Supplemental Declaration of Neal Berinhout correcting and providing updated information to his previously submitted Declarations. No other additional evidence or declaration will be submitted by the defendants with the Amended Motion. Defendants reserve the right to submit additional evidence, as needed, with their reply in accordance with applicable law. Plaintiffs do not object to this procedure.

Defendants shall submit these pleadings on or before February 13, 2008. Plaintiffs will submit their response to the defendants' Motion to Compel Arbitration by March 14<sup>th</sup>, 2008. Thereafter, defendants shall have ten days in which to notify the plaintiffs of their intent to seek discovery based upon the plaintiffs' submittals. If the defendants do not request discovery, their reply to the plaintiffs' response will be due by March 24, 2008. If the defendants request discovery, the parties will meet and confer regarding the defendants' discovery requests. Defendants discovery will be completed within sixty days after the meet-and-confer is completed with the understanding that plaintiffs will cooperate with the scheduling of discovery. For purposes of the discovery contemplated by this Stipulation, Plaintiffs agree that the deadlines for responding to discovery in FRCP 33, 34 and 36 will be 20 days rather than 30 days. Plaintiffs further represent that they will make any third-party declarants available for deposition in a timely manner, and will produce documents to Defendants in advance of those depositions as

needed for Defendants to prepare. This expedited schedule for discovery has been adopted based on Plaintiffs' representations and agreements, as set out herein. Defendants reserve the right to seek additional time for discovery if Plaintiffs fail to perform as agreed or represented. Defendants' reply will be due ten days after completion of discovery.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2008.

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SERVICES, INC.

ORDER

Pursuant to the parties' above-stated stipulation, the Court hereby orders the parties to proceed as set forth above.

DATED this 1<sup>st</sup> day of February, 2008.



RICARDO S. MARTINEZ  
UNITED STATES DISTRICT JUDGE

Presented By:

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